United Nations S/2004/221

Security Council

Distr.: General
18 March 2004

Original: English

Letter dated 15 March 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

I have the honour to refer to the Agreement between the United Nations and the Government of the United Kingdom of Great Britain and Northern Ireland on the Enforcement of Sentences of the International Criminal Tribunal for the Former Yugoslavia, signed on 11 March 2004 at The Hague (see annex).

In accordance with article 12, the Agreement shall enter into force 30 days after signature, on 10 April 2004.

In accordance with article 27 of the Statute of the International Criminal Tribunal for the Former Yugoslavia, the United Kingdom of Great Britain and Northern Ireland hereby submits its formal indication to the Security Council of its willingness to accept convicted persons for the enforcement of sentences in the United Kingdom, in accordance with the provisions of the Agreement and from the date of its entry into force.

I should be grateful if the text of the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Emyr **Jones Parry**

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Annex to the letter dated 15 March 2004 from the Permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the President of the Security Council

Agreement between the United Nations and the Government of the United Kingdom of Great Britain and Northern Ireland on the enforcement of sentences of the International Criminal Tribunal for the Former Yugoslavia

The United Nations, acting through the International Criminal Tribunal for the former Yugoslavia, hereinafter referred to as "the International Tribunal", and The Government of the United Kingdom of Great Britain and Northern Ireland, hereinafter referred to as "the United Kingdom";

RECALLING Article 27 of the Statute of the International Tribunal adopted by Security Council resolution 827 (1993) of 25 May 1993, according to which imprisonment of persons sentenced by the International Tribunal shall be served in a State designated by the International Tribunal from a list of States which have indicated to the Security Council their willingness to accept convicted persons;

NOTING the willingness of the United Kingdom to enforce sentences imposed by the International Tribunal;

HAVE AGREED AS FOLLOWS:

Article 1

Purpose and Scope of the Agreement

This Agreement shall regulate matters relating to or arising out of all requests to the United Kingdom to enforce sentences imposed by the International Tribunal.

Article 2

Procedure

1. A request to the United Kingdom to enforce a sentence shall be made by the Registrar of the International Tribunal (hereinafter "the Registrar"), with the approval of the President of the International Tribunal (hereinafter "the President").

2. The Registrar shall submit the request to the United Kingdom Foreign and Commonwealth Office, through the British Embassy in The Hague.

3. The Registrar shall provide the following documents to United Kingdom Foreign and Commonwealth Office when making the request:

a) a certified copy of the judgement;

b) details of the offences to which the sentence of imprisonment relates;

c) a statement indicating how much of the sentence has already been served, including information on any pre-trial detention, any other measure altering the length or conditions of the sentence and any other factors relevant to the enforcement of the sentence;

d) when appropriate, any medical or psychological reports on the sentenced person, any recommendation for his further treatment in the United Kingdom and any other report relevant to the enforcement of the sentence; and

e) the name, date and place of birth of the sentenced person together with any known family or other ties with the United Kingdom or any other reason for making the request.

4. The competent national authorities of the United Kingdom shall decide upon any such request of the Registrar, in accordance with its national law, and the United Kingdom shall promptly inform the International Tribunal whether or not it agrees to the request.

Article 3

Enforcement

1. In enforcing the sentence pronounced by the International Tribunal, the competent national authorities of the United Kingdom shall be bound by the duration of the sentence.

2. The conditions of imprisonment shall be governed by the law of the United Kingdom, subject to the supervision of the International Tribunal, as provided for in Articles 6 to 9 of this Agreement.

3. The conditions of imprisonment shall be equivalent to those applicable to prisoners serving sentences under the law of the United Kingdom and shall be in accordance with relevant human rights standards.

Article 4

Transfer of the Convicted Person

The Registrar shall make appropriate arrangements with the United Kingdom for the transfer of the convicted person from the International Tribunal to the competent authorities of the United Kingdom. Prior to his transfer, the convicted person will be informed by the Registrar of the contents of this Agreement. The transfer shall take place at a time and place agreed between the United Kingdom and the Registrar.

Article 5

Non-bis-in-idem (rule of speciality)

The convicted person shall not be tried before a court in the United Kingdom for acts constituting serious violations of international humanitarian law under the Statute of the International Tribunal, for which he has already been tried by the International Tribunal.

Article 6

Inspection

1. The competent authorities of the United Kingdom shall allow the inspection of the conditions of detention and treatment of the prisoners, detained under this Agreement, by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter "the CPT") at any time and on a periodic basis, the frequency of visits to be determined by the CPT. The CPT will submit a confidential report based on the findings of these inspections to the Foreign and Commonwealth Office and to the President of the International Tribunal. The confidential report shall not be released, by the President of the International Tribunal to any person or body, without the consent of the Government of the United Kingdom.

2. The United Kingdom and the President shall consult each other on the findings of the reports referred to in paragraph 1 of this Article. The President may thereafter request the United Kingdom to report to him or her any changes in the conditions of detention suggested by the CPT.

Article 7

Information

1. The United Kingdom shall immediately notify the Registrar:

a) six months prior to the completion of the sentence;

b) if the sentenced person has escaped from custody before the sentence has been completed;

c) if the sentenced person has deceased; and

d) six months prior to the point at which early release would be considered for an equivalent domestic sentence in the jurisdiction of the United Kingdom to which the sentenced person has been transferred.

2. Notwithstanding paragraph 1 of this Article, the Registrar and the United Kingdom shall consult each other on all matters relating to the enforcement of the sentence upon the request of either Party.

3. The Registrar shall, during the course of enforcement of any sentence under this Agreement, provide the United Kingdom with any report or other information requested by the United Kingdom, which is relevant to the enforcement of such a sentence and within the possession of the Registrar.

Article 8

Early release, pardon and commutation of sentences

1. If, pursuant to the applicable national law of the United Kingdom, the sentenced person is eligible for early release, pardon or commutation of the sentence, the United Kingdom shall notify this to the Registrar, in advance of such eligibility, and shall include in any such notification all the circumstances pertaining to the eligibility for early release, pardon or commutation of the sentence.

2. The President of the International Tribunal shall determine, in consultation with the Judges of the International Tribunal, whether any early release, pardon or commutation of the sentence is appropriate. The Registrar shall inform the United Kingdom of the President's determination. If the President determines that an early release, pardon or commutation of the sentence is not appropriate, the United Kingdom shall act accordingly.

Article 9

Termination of enforcement

1. The enforcement of the sentence shall cease:

   a) when the sentence has been completed,

   b) upon the death of the sentenced person;

   c) upon the pardon or commutation of the sentenced person; or

   d) following a decision of the Tribunal referred to in paragraph 2 of this Article.

2. The International Tribunal may at any time decide to request the termination of the enforcement of the sentence in the United Kingdom and transfer the sentenced person to another State or to the International Tribunal.

3. The competent authorities of the United Kingdom shall terminate the enforcement of the sentence as soon as they are informed by the Registrar of any decision or measure as a result of which the sentence shall cease to be enforceable.

4. After the enforcement of the sentence has ceased in accordance with this Agreement, the United Kingdom may transfer or deport the convicted person as appropriate and in accordance with its international obligations.

Article 10

Impossibility of enforcement of sentence

If, at any time after the decision has been taken to enforce the sentence, for any legal or practical reasons, further enforcement has become impossible, the United Kingdom shall promptly inform the Registrar. The Registrar shall make the appropriate arrangements for the transfer of the sentenced person. The competent authorities of the United Kingdom shall allow at least sixty days following the notification of the Registrar before taking further action on the matter.

Article 11

Costs

The International Tribunal shall bear the expenses related to the transfer of the sentenced person to and from the United Kingdom, unless the Parties agree otherwise. The United Kingdom shall pay all other expenses incurred in the enforcement of the sentence.

Article 12

Entry into force

This Agreement shall enter into force 30 days after signature by the International Tribunal and the United Kingdom.

Article 13

Duration of the Agreement

1. This Agreement shall remain in force as long as sentences of the International Tribunal are being enforced by the United Kingdom under the terms and conditions provided in this Agreement.

2. Either Party may terminate this Agreement following consultations with the other Party and after the expiry of two months from the date on which written notice has been given by the terminating Party to the other Party. This Agreement shall not be terminated before any sentences to which this Agreement applies have been completed or terminated in accordance with this Agreement nor before any sentenced individual has been transferred or deported from the United Kingdom subsequent to the completion or termination of such a sentence.

IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Agreement.

Done at this day of , 2004, in duplicate, in the English language.

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

FOR THE UNITED NATIONS

Her Majesty's Ambassador
The Hague

Deputy Registrar
International Criminal Tribunal
for the former Yugoslavia